THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 34250 of 1998

DATE: 04-04-2007

Between :

D.Jaya Prakash and another

… Petitioners

And

The Mandal Revenue Officer,
Satyaveedu,
Chittoor District and another.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 34250 of 1998

ORDER:

The petitioners herein claim to be in possession and enjoyment of lands admeasuring Ac.4.45 cents in Sy.No. 397, Ac.3.47 cents in Sy.No.398 and Ac.1.48 cents in Sy.No.396 of Pedda Etipakam village, Satyavedu Mandal, Chittoor District.

Though it is not in dispute that the said lands are assessed as Government wastelands, it is contended by the petitioners that in view of their continuous possession and enjoyment, they are entitled for assignments in their favour. It is claimed that they have raised mango garden on the said land and there are number of fruit bearing trees. While so, the first respondent-Mandal Revenue Officer, issued a notice under Section 7 of the Land Encroachment Act, 1905 (for short 'the Act') dated 19-03-1993 calling upon the petitioners to show cause as to why they should not be evicted from the Government land. It is alleged that though no final order under Section 6 of the Act has been passed, the first respondent attempted to dispossess them forcibly. Hence, this writ petition seeking a declaration that the action of the respondents in seeking to evict the petitioners from the land in question is arbitrary and illegal.

In response to the Rule Nisi ordered, the Mandal Revenue Officer, Satyavedu Mandal, Chittoor District filed a counter affidavit stating that pursuant to the notices issued under Section 7 of the Act, dated 19-03-1993, the Mandal Revenue Officer has

passed an order of eviction in the year 1995 itself and thereafter the Forest Administrative Officer, Chittoor has taken custody of the land in question. The claim of the petitioners that they have been continuing in possession and enjoyment of the land in question has been denied and it is contended that both the petitioners are wealthy persons and are not eligible for grant of assignment of the Government land even on the market value.

The petitioners have not filed any affidavit in reply nor any other material is placed before this Court rebutting the version of the respondents.

In view of what has been stated in the counter affidavit, it is clear that the petitioners are not in possession as on the date of filing of the writ petition.

Since the possession was already taken from the petitioners along with other encroachers and the same vested with the Government, the action of the respondents in proposing to grant assignments to the members of the schedule caste and other weaker sections cannot be held to be either arbitrary and illegal.

The writ petition is devoid of any merit and accordingly, the same is dismissed. No costs.

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G. ROHINI, J

Dt.04-04-2007
KLP